

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KENNETH BODEN, et al.,

Plaintiffs,

v.

BOSTON SCIENTIFIC CORPORATION,
et al.,

Defendants.

Civil Action No. 20-20110 (MAS) (DEA)

MEMORANDUM ORDER

This matter comes before the Court upon Defendant Boston Scientific Corporation's ("Defendant") Motion to Dismiss. (ECF No. 4.) Plaintiffs Kenneth Boden and Kelly Grady (collectively "Plaintiffs") filed opposition (ECF No. 9), a Cross Motion to Amend (ECF No. 10), and a Cross Motion to Remand (ECF No. 11). Defendant filed a reply brief with respect to its Motion to Dismiss. (ECF No. 12.) Defendant, however, did not oppose Plaintiffs' Cross Motion to Amend or Motion to Remand.

Federal Rule of Civil Procedure 15(a) provides that the Court should "freely give leave" to amend the pleadings "when justice so requires." Fed. R. Civ. P. 15(a)(2). The Court, nevertheless, may deny a motion to amend where there is "undue delay, bad faith[,]. . . repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [or] futility of amendment." *Foman v. Davis*, 371 U.S. 178, 182 (1962). Where there is an absence of the above factors, however, a motion for leave to amend a pleading should be liberally granted. *See id.*; *Alvin v. Suzuki*, 227 F.3d 107, 121 (3d Cir. 2000); *Long v. Wilson*, 393 F.3d 390, 400 (3d Cir. 2004).

Here, the Court finds good cause to grant Plaintiffs' Motion to Amend. (ECF No. 10.) The Amended Complaint (ECF No. 10-2) will, therefore, become the operative pleading in this matter. The filing of the Amended Complaint results in the Court's loss of subject matter jurisdiction based on diversity of jurisdiction. (*See* Am. Compl. ¶¶ 5-6.) The Court, consequently, also finds good cause to remand this matter to state court.

Based on the foregoing, and for other good cause shown,

IT IS on this 21st day of July 2021, **ORDERED** that:

1. Plaintiffs' Cross Motion to Amend (ECF No. 10) is **GRANTED**.¹
2. The Clerk shall file the Amended Complaint. (ECF No. 10-2.)
3. Plaintiffs' Cross Motion to Remand (ECF No. 11) is **GRANTED**.
4. The Clerk shall remand this matter to the Superior Court of New Jersey, Monmouth County.

s/ Michael A. Shipp

MICHAEL A. SHIPP

UNITED STATES DISTRICT JUDGE

¹ The Court declines to address Defendant's Motion to Dismiss. (ECF No. 4.)